

## § 347.106

## 12 CFR Ch. III (1–1–02 Edition)

state nonmember bank's Tier 1 capital, subject to the following:

(i) Any equity securities acquired pursuant to any underwriting commitment extending up to 90 days after the payment date for the underwriting may be excluded from this limit;

(ii) Any equity securities of the entity held under the authority of § 347.104 or 12 CFR 211.5(b) for purposes other than distribution or dealing must be included in this limit; and

(iii) Up to 75 percent of the position in an equity security may be reduced by netting long and short positions in the same security, or offsetting cash positions against derivative instruments referenced to the same security so long as the derivatives are part of a prudent hedging strategy; and

(2) Must be included in calculating the general consent limits under § 347.108(a)(3) if the insured state nonmember bank relies on the general consent provisions as authority to acquire equity interests of the same foreign entity for investment or trading.

(c) *Additional distribution and dealing limits.* With the exception of equity securities acquired pursuant to any underwriting commitment extending up to 90 days after the payment date for the underwriting, equity securities of a single entity held for distribution or dealing by all affiliates of the state nonmember bank (this includes shares held in connection with an underwriting or for distribution or dealing by an affiliate permitted to do so by § 337.4 of this chapter or section 4(c)(8) of the Bank Holding Company Act), combined with any equity interests held for investment or trading purposes by all affiliates of the state nonmember bank, must conform to the limits of § 347.104.

(d) *Combined limits.* The aggregate of the following may not exceed 25 percent of the insured state nonmember bank's Tier 1 capital:

(1) All equity interests of foreign organizations held for investment or trading under § 347.104(g) or by an affiliate of the insured state nonmember bank under the corresponding paragraph of 12 CFR 211.5;

(2) All underwriting commitments under paragraph (a) of this section, taken together with all underwriting

commitments by any affiliate of the insured state nonmember bank under the authority of 12 CFR 211.5, after excluding the amount of any underwriting commitment;

(i) Covered by binding commitments from subunderwriters or purchasers under paragraph (a)(1) of this section or the comparable provision of 12 CFR 211.5; or

(ii) Already deducted from the insured state nonmember bank's capital under paragraph (a)(2) of this section, or the appropriate affiliate's capital under the comparable provisions of 12 CFR 211.5; and

(3) All equity securities held for distribution or dealing under paragraph (b) of this section, taken together with all equity securities held for distribution or dealing by any affiliate of the insured state nonmember bank under the authority of 12 CFR 211.5, after reducing by up to 75 percent the position in any equity security by netting and offset, as permitted by paragraph (b)(1)(iii) of this section or the comparable provision of 12 CFR 211.5.

### **§ 347.106 Restrictions on certain activities applicable to foreign organizations held by insured State nonmember banks.**

*Futures commission merchant.* If an insured state nonmember bank, in reliance on the authority of § 347.104, acquires or retains an equity interest in one or more foreign organizations which acts as a futures commission merchant as authorized by § 347.104(b)(10), the foreign organization may not be a member of an exchange or clearing association that requires members to guarantee or otherwise contract to cover losses suffered by other members unless the foreign organization's liability does not exceed two percent of the insured state nonmember bank's Tier 1 capital, or the insured state nonmember bank has obtained the prior approval of the FDIC under § 347.108(d).

### **§ 347.107 U.S. activities of foreign organizations held by insured State nonmember banks.**

(a) An insured state nonmember bank may not directly or indirectly hold the equity interests of any foreign organization pursuant to the authority of